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Attorneys for Defendant, The Regents of the
University of California

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

TANIA P., an individual,

Plaintiff

v.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA; and DOES 1-10,
Inclusive.

Defendants.

CASE NO.: 2:22-cv-02959-GW-
MRW

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
MOTION TO DISMISS FIRST
AMENDED COMPLAINT**

DATE: November 17, 2022
TIME: 8:30 a.m.
CRTRM: 9D

Defendant The Regents of the University of California, by and through its
attorneys, hereby requests the Court take judicial notice pursuant to Federal Rule of
Evidence 201 of the following facts:

1. The “University of California, Santa Barbara Local Procedures for
Reported Student Violations of the UC Policy on Sexual Violence and Sexual
Harassment,” policy attached hereto as **Exhibit 1**.

2. “The University of California-Policy SVSH, Sexual Violence Sexual
Harassment,” policy attached as **Exhibit 2**.

1 3. The “COVID-19 Response Update and Winter/Spring Quarter
2 Guidance” memorandum from the Office of the Chancellor to all members of the
3 University community, attached as **Exhibit 3**.

4 The Regents requests this Court take judicial notice of these documents for
5 the following reasons:

6 Exhibit 1, 2, 3: University Sexual Assault Policies and Procedures and Procedures
7 and Chancellor’s Memo

8 Upon a properly supported request by a party, a federal court may take
9 judicial notice of adjudicative facts. Fed.R.Evid. 201(a), (d). Facts subject to judicial
10 notice are those which are either “(1) generally known within the territorial
11 jurisdiction of the trial court or (2) capable of accurate and ready determination by
12 resort to sources whose accuracy cannot reasonably be questioned.” Fed.R.Evid.
13 201(b). The University policies and procedures for responding to sexual assaults are
14 referenced throughout Plaintiff’s First Amended Complaint (“FAC”), and the
15 authenticity of the document cannot reasonably be questioned.

16 While a court may generally not consider material beyond the pleadings in
17 ruling on a Rule 12(b)(6) motion, a document is not considered “outside” the
18 complaint if the complaint specifically refers to the document and its authenticity
19 cannot be questioned. *Townsend v. Columbia Operations*, 667 F.2d 844, 848-49 (9th
20 Cir.1982). As the court explained in *Branch v. Tunnell*, 14 F.3d 449 (9th Cir. 1994),
21 overruled on other grounds in *Galbraith v. County of Santa Clara*, 307 F.3d 1119
22 (9th Cir. 2002), “ ‘when [the] plaintiff fails to introduce a pertinent document as part
23 of his pleading, [the] defendant may introduce the exhibit as part of his motion
24 attacking the pleading.’ ” *Branch*, 14 F.3d at 453-54, citing 5 Charles Alan Wright
25 & Arthur R. Miller, *Federal Practice and Procedure* § 1327, at 762-63 (2d ed. 1990).

26 In the present case, the FAC references the University’s policies and
27 procedures throughout, alleging the policies are insufficient, yet does not attach the
28 policies. Further, the policies’ authenticity cannot be questioned.

1 First, there are numerous references to the University's sexual assault policies
2 and procedures in the FAC. *See, e.g.*, Dkt. 1-1, ¶¶ 45, 60, Prayer for Relief 7.
3 Despite references to the policies, and allegations of failure to comply with the
4 policies, Plaintiff failed to attach the complete policies and procedures applicable to
5 her claim. Because Plaintiff has failed to introduce pertinent portions of this
6 document which support the defense, The Regents may introduce the complete copy
7 of the documents as an exhibit in support of its motion to dismiss.

8 Second, the policies and procedures cannot reasonably be questioned on an
9 authenticity basis. Plaintiff received the sexual assault policies and procedures upon
10 her enrollment as a student. All the policies and procedures are also available on the
11 University's website, at <http://www.sa.ucsb.edu/policies/sexual-assault-policy>.
12 There are no allegations relating to the authenticity of the document; rather, Plaintiff
13 contends The Regents failed to adhere to the policies, or alternatively, that the
14 policies are inadequate, while The Regents contends it did adhere to the policies and
15 the policies are adequate. The Court should therefore have these documents,
16 referenced throughout the FAC, when deciding on the motion to dismiss.


17 Finally, the Chancellor's memo cannot reasonably be questioned on an
18 authenticity basis. The memos are distributed to the University community and
19 publicly available on the University's website:
20 [https://chancellor.ucsb.edu/memos/2020-03-10-covid-19-response-update-and-](https://chancellor.ucsb.edu/memos/2020-03-10-covid-19-response-update-and-winterspring-quarter-guidance)
21 [winterspring-quarter-guidance](https://chancellor.ucsb.edu/memos/2020-03-10-covid-19-response-update-and-winterspring-quarter-guidance). The memorandum is being offered solely to show
22 that the University transitioned to remote learning on March 10, 2020, in response to
23 COVID-19, again a fact that is not reasonably in dispute.

24 For these reasons, The Regents requests the Court take judicial notice of the
25 sexual assault policies and procedures attached hereto as **Exhibit 1 and 2**, and the
26 Chancellor's March 10, 2020, memo, attached as **Exhibit 3**.
27
28

1 Dated: September 16, 2022

NYE, STIRLING, HALE & MILLER, LLP

2
3 Bv:


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